

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 02/03/2025

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PHOENIX FASHION, INC.,

Plaintiff,

-v-

SAADIA GROUP LLC; NEW YORK & COMPANY
STORES, INC.; FASHION TO FIGURE ECOMM LLC;
LORD & TAYLOR ECOMM LLC; YAKOUB N
SAADIA a/k/a YAKOUB SAADIA a/k/a YAKAOUB
SAADIA a/k/a YAKOUB SAABIA a/k/a JACK
SAADIA; NY AND CO ECOMM LLC; LETOTE
ECOMM LLC; AQUATALIA ECOMM LLC; FASHION
TO FIGURE IP LLC; RTW RETAILWINDS
ACQUISITION LLC; LORD & TAYLOR
ACQUISITIONS LLC; LORD & TAYLOR IP LLC;
LETOTE IP LLC; AQUATALIA IP LLC; 501 JERSEY
AVENUE LLC; BROOK WAREHOUSING AND
DISTRIBUTION LLC; 1735 JERSEY AVENUE
PROPERTY LLC; SAADIA DISTRIBUTION LLC;
STONY BATTERY RD PROPERTY OWNER LLC;
1000 STONEY BATTERY ROAD, LLC,

Defendants.

23-cv-5788 (LJL)

MEMORANDUM AND
ORDER

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LEWIS J. LIMAN, United States District Judge:

Plaintiff-appellee Phoenix Fashion, Inc. (“Phoenix Fashion”) moves, pursuant to Federal Rule of Appellate Procedure 10(b)(3)(C), for an order directing that defendant-appellant Yakoub N. Saadia a/k/a Yakouv Saadia a/k/a Yakaoub Saadia a/k/a Yakouv Saabia a/k/a Jack Saadia (“Saadia”) order transcripts of the following proceedings to be added to the record on appeal: (a) 9/16/2024 case management conference; and (b) 10/9/2024 telephone conference for hearing on Plaintiff’s motion for a default judgment. Dkt. No. 237. The motion is granted.


Saadia appeals a default judgment entered by this Court on December 3, 2024. Dkt. No. 235. The two transcripts that Phoenix Fashion seeks to have added to the record are critical to understanding this Court's judgment. On September 16, 2024, the Court heard the parties on Saadia's motion to vacate the entry of default and, after concluding that the default was not willful, also ruled that Saadia had advanced no meritorious defense to the vast majority of the damages sought and had prejudiced Phoenix Fashion by repeatedly delaying the action, causing Phoenix Fashion to lose priority to other creditors. Dkt. No. 221. The Court therefore ordered that the entry of default be vacated only upon the posing of a bond. Dkt. No. 221 at 3; *see* Dkt. No. 223 at 5. On October 9, 2024, the Court heard from the parties regarding Phoenix Fashion's motion for a default judgment. After hearing from the parties, the Court issued a memorandum and order holding that Phoenix Fashion was entitled to a default judgment. Dkt. No. 223 at 5. The proceedings on September 16, 2024, and October 9, 2024, included argument relevant to the Court's decision to enter default judgment and are necessary to enable "meaningful appellate review" of that decision. *Wrighten v. Glowski*, 232 F.3d 119, 120 (2d Cir. 2000).

The request for attorney's fees for bringing the FRAP 10(b)(3)(C) motion is denied.

The Clerk of Court is respectfully directed to close Dkt. No. 237.

SO ORDERED.

Dated: February 3, 2025
New York, New York


LEWIS J. LIMAN
United States District Judge